IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10184 of 1997

Between:

Vipla Ice Plan, IDA, Bollaram, Jinnaram Mandal,

Medak District, rep. by its Managing Partner

..... PETITIONER

AND

1. A.P.S.E.Board, rep. by its Secretary, Vidyut Soudha, Hyderabad.

2. The Chief Engineer/Electricity, Hyderabad Zone, Mint Compound,

Hyderabad.

3. The Superintending Engineer, Assessments (Spl), 4th Floor,

Vidyut Soudha, Hyderabad.

4. Assistant Divisional Engineer, Operation, Gummadidala, Medak

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Mandamus declaring the action of the respondents in concluding that the petitioner is guilty of malpractice for exceeding the contracted load as illegal, arbitrary and contrary to Indian Electricity Act and set aside the proceedings of the second respondent in Lr.No.CEE/HZ/SMRT/A of 95/D.No.852/97 dated 31-03-1997 which confirmed the orders of the third respondent in Order No.SC/A/Spl/Hyd/F.No./MDK-

25/D.No.120/95 dated 27-06-1995.

Counsel for the Petitioner: Mr. B. Adinarayana Rao

Counsel for the Respondents: Mrs. M. Vinobha Devi

The Court made the following:

O R D E R:

Heard the learned counsel for the petitioner and the learned standing counsel appearing on behalf of the respondents.

The petitioner, which is running an ice plant, filed this writ petition, *inter alia,* seeking to assail the action of the respondents in issuing the final assessment dated 27-06-1995 in regard to certain irregularities found by them and confirming the same by proceedings dated 31-03-1997.

According to the petitioner, his premises was inspected on 07-10-1993 and thereafter, a provisional assessment notice was issued by the fourth respondent on 30-10-1993 for a sum of Rs.2,66,810/-. Subsequently, after issuing a show-cause notice dated 16-11-1994, the final assessment was made on 27-06-1995 fixing the amount at Rs.1,87,690/-. Aggrieved by the same, he preferred an appeal, which was dismissed on 31-03-1997. Hence, the writ petition.

Through several contentions have been urged on behalf of the petitioner as well as the respondents, the fact remains that there has been serious variance in regard to the amounts as demanded by the respondents in the provisional assessment i.e., Rs.2,66,810/- and in the show-cause notice i.e., Rs.4,14,862-50ps and ultimately, in the

final assessment i.e., Rs.1,87,690/-. It is now represented that an amount of Rs.1,33,405/- i.e., half of the amount as demanded in the provisional assessment has already been deposited by the petitioner. Therefore, taking into consideration the fact that the inspection was conducted as long back as on 07-10-1993 and in view of the inconsistent figures as arrived at by the respondents, the ultimate amount as arrived at by the respondents appears to be on higher side.

The writ petition is accordingly allowed in part and the amount demanded in the final assessment i.e., Rs.1,87,690/- is reduced to Rs.1,33,405/-, which was already paid by the petitioner. No costs.

(**B. PRAKASH RAO, J**)

Date: 26-11-2004

ghn

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the twenty sixth day of November, Two thousand and Four.

To

1. The Secretary, A.P.S.E.Board, Vidyut Soudha, Hyderabad.

2. The Chief Engineer/Electricity, Hyderabad Zone, Mint Compound, Hyderabad.

3. The Superintending Engineer, Assessments (Spl), 4th Floor, Vidyut Soudha, Hyderabad.

4. The Assistant Divisional Engineer, Operation, Gummadidala, Medak District.

5. Two CD copies.